Previous references
ml 82-12(1-4) 1912-13
(Municipal

File No. 82-12
Serial Nos 5, 708

Later references
mb 94-14(1-2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 5-, 708

Part B for September 1913

SUBJECT

Licenses for construction of buildings in mf. towns

(5) From Dy. Comrs. no 318 of 30-1-13
Solicits instructions as to the course where municipal councillors let off persons building houses without licenses & promising to prosecute Siddavanahally Channabasappa of Davangere
Shimoga.

(7) To the Dy. Com no 929 of 22-5-13
Calls for records of certain cases of criminal prosecutions launched in the Court, which were withdrawn thereafter on instructions of mf. Cl

(8) From the Dy. Comrs. no 43 of 28-7-13
Submits records in criminal no 5 of 12-1

(1

G R.S. 11] 1912-1913

GENERAL AND REVENUE SECRETARIAT.

(Mcs)

NOTES.

File No 82-12

File Heading.

Licenses to be taken out for the Construction of buildings in Municipal towns.

From

The Dy. Comr., Chittagong District

No. 318 Dated 30.1.13 Received 1.2.1913

Diary No. 4436	Enclos 1 Spare Copies —	Serial No 5

Brief Abstract of Letter.

Solicits instructions as to the course to be adopted when the majority of Municipal Councillors of any Municipal Council (as in the case of Baidyanagore) working in collusion and with interested motives persistently let off with a mere warning persons found infringing the provisions of the Municipal Regn in respect of building.

NOTES AND ORDERS.

Submitted. To direct a prosecution for any infringements of the provisions of the Municipal Regn is not a purely executive function. Hence, that power is vested in the Municipal Council under sec 161. If the Dy Comr of the Distt. Cannot legally

Notes—First Sheet.

GPB—35,000—15-6-12

R. S. 12]

General and Revenue Secretariat. | dnC File No. 82 of 1912

Serial No

interfere under Sec 178, the only course left seems to be for the Govt to take action under Sections 178 and 179 The Govt should, as it is submitted, be consulted as to, if considered necessary

sub P

2 The order of 1892 referred to by the Dy Comr does not apply to Corpn Municipalities Sec 26 Cl (2) provides for the modification and cancellation of the Council's Resolutions. Subs for orders.

1.50
2.13

3 The D/Comrs proposes that the provisions of the Municipal Regulation should be so amended as to empower the President of the Municipality or the D/Comrs to order prosecutions for breaches against the Municipal laws The law at present is that such powers is vested in the Municipal Council under section 161 of the Municipl Regulation

commencement of a building without notice or license

4 The D/Comrs reports that in the particular case brought to notice and in two other cases, the majority of the Municpal Cos resolved to excuse the offenders with a warning & that they did not accept any reasons for

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat. | dl File No. 82 of 1912

Serial No.

their opinion the D/Commr further adds that the Municpl Cns of Davangere are on the habit of guarding the interests of the townspeople though they are convinced that the people are offending against the provisions of the Municpl Regulation.

5 The instances brought to notice are trivial & incidental to local Self govt there should be strong and valid grounds for taking action either by the D/Commr or the govt under sections 174, 178 & 179 of the Mysore Municpl Regulation

6 The D/Commrs letter may be acknowledged with the remark that his suggestion is noted by govt

Dy Secy) 10/9/12

7 The meaning of the word "unlawful" in Sec 174 will have to be considered & the Bombay Act refd to Please put up the Letter Draw 13/12

13/9/12

8 The Bombay Distt Municpl Manual & Subsidiary. In Stroud's Judl Dictionary, the word "unlawful" is stated to be used in two senses viz as being unenforceable by law and 2, as being punishable by law The

Note—Contin. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat | File No. 82 of 1912

Serial No

word as perhaps used in the latter sense in Sec 176 of the Munb. Regn

Ena 660
17 2 13

ZY
19/2/13

9 D/Secy)

The file was sent to me just now the provision about the authority that can sanction prosecutions of this kind under the different Municipal Acts in British India may be noted below in brief terms:

Dmm
13/3/13

13/3/13

10 Submitted -

(a) under the Bengal Distt Municipalities Act (S 352) the "Commissioners" have to sanction

(b) under the Madras Distt. Municipalities Act (S 280) the Police, the Munb. Council, the Chairman or such person authorized by the Munb Council or Chairman

(c) N.W. Provinces and Oudh - the Board or some person authorized by the Bd (S 177)

(d) Central Provinces - the Dy Comr, or the Committee or Sub-Committee or any person authorized in this behalf (S. 159)

(e) Punjab - the Committee or some person authorized by the Committee (S. 228)

Note—Contin sheet.

GPB—65,000—17-6-12.

L.4436 5

[R. S. 12]

General and Revenue Secretariat | Mc File No. 82 of 1912

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(f) Burma - Same as Punjab (S 195)
(g) City of Bombay - The Commissioner (S 517)
(h) City of Madras - The President (S 451)
(i) Calcutta - The Chairman, subject to the control of the Corporation (S 633)
(k) Civil Station of Bangalore - The Commissioner or some person authorized by the Commissioner (S 176)

Min 50
14.3.1913

Dy Secy)

29
17/3/13

As regards the authority that can sanction prosecutions under Municipal Laws, the Mysore Municipal Reg. confers the power solely in the Municipal Council (Sec 161). Apart from the ex officio delay this has, there is often delay in getting the sanction whereas prosecutions to be effective, must generally be prompt. Besides these general defects, there is the further serious one brought to light by the prosecutions of the Davanagere Municipal Council in withholding sanction even in cases of clear violations of the Standing Laws. Their action cannot be clearly said to be "unlawful" & the Dy Comm^r has from a fear no control over them. To remedy these defects and to set at rest all doubts in the matter the law must be amended so as to empower the Provincial

NOTE—Contin. sheet.

R. S 12]

General and Revenue Secretariat

Mc File No. 82 of 1912

Serial No.

to sanction prosecutions, subject to the general control of the Municipal Councils. In the several provinces & places in British India, the sanctioning authority is similar to the one suggested.

12 If the principle of amending the law is approved, the file will be referred to the Legislative Section for taking needful action

D M Narangalkar 18/3

(2nd Consultation & Draft)

13 It is very necessary that the amendment should be applicable in the interests of the rate-payers & municipal administration.

2048/24 3 13

20/3/13

22/3 Draft p

14 I shall be glad if the Municipal Council will kindly let me have their views as soon as may be convenient.

8 5 13

15/5

(1st Consultation)

Dhunjeebhoy 7/5/13

15 I do not quite see ~~any possible~~ that though the Municipal Council may direct a prosecution, under 161, why a prosecution should not

NOTE—Contin. sheet.

GIPE—85,000—17-C-12.

Serial No.

launched by a Complaint made by any Munl Offr (under the order of the Chief President or Vice President) under S. 190 of the Cr. Pr. Code. It is not stated in S. 161 of the Mul Regns or in any other provision (as far as I can recollect) that a prosn is invalid without the previous sanction of a Mul Council. Please let me know if this view has been considered.

Mr W.S. 8/5/13 Secy Jus

I have heard that one or two prosecution orders by Dy Comrs of Dists were dismissed on the ground that such prosecutions were not sanctioned by the Municpl Council under Section 161 of the Municipal Regulation. The Registrar of the Chief Court may be requested to obtain & submit to Govt. Records of Cases instituted under

NOTE—Comm. check.

4436 (8

R S 12]

General and Revenue Secretariat.

File No. 82 of 1912

Serial No

Section 161 of the Mysore Municipal Regulation VII of 1907

Dy Secy) 17/5/13

7 Directed that a case was thrown out by the 1st Class Mag of Shimoga on the ground that the prosecution had not been sanctioned by the Council. A draft calling for this particular record may be put up as a general requisition will lead to loss of time (Early)

Draft 19/5

18 Draft letter Subd

19.5.13 Dy Secy)

20/5/13

20 Draft as revised Draft 20/5

7 Letter No 9296 Dt 22 5. 913 to the Dy Commr, Shimoga &c

Calls for the records of certain case of Criminal prosecution launched in the Court of the Asst Commr & 1st Class Magistrate of Shimoga Dt which failed on the ground that prosecution not having been sanctioned by the Municipal Council.

8 To the Dy Comr, Shimoga Dist. No 4-3 dt 28/5/13

Submits Records in original criminal case no 5 of 1912-13 (Govt Vs T Rama Rao) on

Note—Contin. sheet.

G1 E—65,000—1-7-12.

R S 12]

General and Revenue Secretariat

Jud File No. 82 of 1912

Serial No

on the file of the Asst Court of 18th Class Magistrate, Bhimaya Sub-Div

21 Submitted for orders with reference to para 17 supra.

W 22. Jud F No 70-13 ff also put up

31.7.1913 23 Dy Secy

24 With reference to para 18 1st Councillor

Dy 1/8 Dumayalaw 2/8 Dy 2/8

25) Please let me see 35 B L R 412

8/13

26) Yes Or. III Jor pulling up the track 27 8. 8/8 Dy 5/8.

8-8-13

Jud 49 1913-14

27) Subm with 9 L.R. 35 Bombay

9/8/13 9/8/13

28) Yes Or IV

29) Subm with reference to para 25 supra

1st Councillor Dy Secy 9/8

30. I do not think the Magte's view is right It may be

Note—Contn. sheet.

GII—88,000—17-6-12.

[3 R. S 12]

General and Revenue Secretariat | File No. 82 of 1912

Serial No.

taken up for review before the Bh Court & if they uphold it, then the law may have to be amended—

9/8/13

14/8

31. With reference to paras 13 & 14.

D Emrau

Draft approved 11/8

4541 10 Aug 13

32 Please consult the 2nd Councillor also & if he concurs, the further action may be taken as suggested by the 1st Councillor

14 & 13

20 15/8

33 2nd Councillor

Draft approved

34 I think the proposed Govt Order will be a test-case

14/8

22/8

23/8 & 13/8

35 Draft of an order is submitted [Please see Ins 7, 70-13 also]

HWK 80 23 & 1913

HWK 25/8/13

36. Please submit this draft as revised

25/8

NOTE—Comin. sheet.

GPB—65,000—17-6-12.

R. S 12]

General and Revenue Secretariat

File No. 82 of 1912

Serial No

36 Indy draft on the Shamaga Case and a fresh draft to the Dy Comr, Kohat-Drang are Submitted

AWK 80 26 8 C/13 (19 37.94 Sec'y)

Dm 26/8

38 Draft of a letter to the Govt Advocate as per personal instruction of the Dy Secretary is Submitted

AWK 80 26-8 C/13 39 Govt Sec'y)

Dm 26/8.

40 Draft as revised is approved.

41 Yours

Dm 26/8

Dm 26/8

To the Govt Advocate in Despatch. No 2297 dtd 7. No 70-13-6 dt 27.8 C/13

Forwards records re Case No 5 of 1912 3 on the file of the Addl. Comr 1st Class Mansehra Shamsher Khan & requests him to take up the Case for revision before the Chief Court on the point of Law involved.

42. In the Office letter No 3649 dtd 70 13 8 the 15 9 C/13 the Govt Advocate was asked not to press the Revision petition for consideration being that it is time that be take to move in the matter

43

Note—Contin sheet.

GPB—85,000—17-4-12.

R. S 12]

General and Revenue Secretariat

File No. 802 of 1912

Serial No

43 This file is submitted for orders as a reply is due to the Secy. Colonial Troops Dept. Attention is invited to paras 12, 13 15 & 30 of these rules.

17/9

17/9

2nd Circular

46. I think we might write back for some time, at least, under a similar case there was of a number of the cases in question & the Chief Comp. for a ruling as it is seen from the case how is defective, we may kindly get a correct Reg. in this regard

19/9

19/9

19/9

file for the present

24/9/19

Note—Contin. sheet.

From

The Deputy Commissioner
Chitaldrug District

To

The Secretary to Govt.
Genl & Rev. Depts
Bangalore

Dated

Despatched 31st January 1913.

Received

General No. 378
No.

Enclosure No. 1

Requesting permission to prosecute one Siddavanahally Channabasappa, resident of Davangere, for unauthorized erection of a zinc-roofed building in the Municipal Town of Davange

No. 315
Ex. 1

4436 Office of the Deputy Commissioner,
Chitaldrug District.

1012-1013

Dated Chitaldrug, 30th January 1915.
31

From

K. [illegible] Iyer Esquire,
Offg. Deputy Commissioner,
C h i t a l d r u g.

To

K.R. Srinivasiengar Esquire M. A.,
Offg: Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments,
B a n g a l o r e.

S I R,

I have the honor to state that one Siddavvanahalli Chennabasappa, resident of Davanagere municipal town erected a zinc-roofed building without obtaining a license therefor from the municipality, and in spite of clear instructions communicated to him not to proceed with the work. The matter was placed before the meetings of the municipal council held in July and August 1912 and it was finally resolved that though the action of the individual referred to above was an offence under section 96 clause 5 of the Municipal Regulation that he may be excused on this occasion.

2 At the end of the resolution, the President has recorded his personal remarks about the attitude of these councillors, from which it appears that the councillors who are mostly local merchants of the town are in the habit of guarding the interests of other townspeople though they are convinced that the people are offending against the provisions of the Municipal Regulation. In a couple of other cases of the kind in question it is said that the majority of the councillors having joined together have caused the passing of a like resolution. The President brings to notice that since the councillors are thus working in collusion and with interested motives, it is not possible to bring the offenders to justice. It is stated that when the propositions are put to vote at the meeting the majority of the councillors say that the offenders may be excused with a warning and they do not assign any reasons for their

their opinion

(2

3 In pointing out the foregoing facts relating to the conduct of the councillors the President of the Municipality states that as he has no powers to set aside the resolutions of the council as per Government order No. 8280-L.F. 50-92 dated the 13th December 1892, he cannot himself order the prosecution of persons found infringing the provisions of the Regulation Further he is of opinion that such persons should be proceeded against in order to put a stop to the unauthorized erection of buildings in the town as this sort of attitude on the part of people is prevailing to a very great and undesirable extent which is mainly due to some of the councillors encouraging it in the manner already stated above They appear to have formed a combination to help each other at every favorable opportunity. It would perhaps be well that the Municipal Regulation is amended so as to leave this matter entirely to the President or the Deputy Commissioner

4 The favor of early orders of Government as to how to proceed in matters of the kind under advertence is solicited A copy of the resolution of the council is enclosed herewith

In the present instance no action can be taken as more than six months has elapsed since the commission of the offence

I have the honor to be,

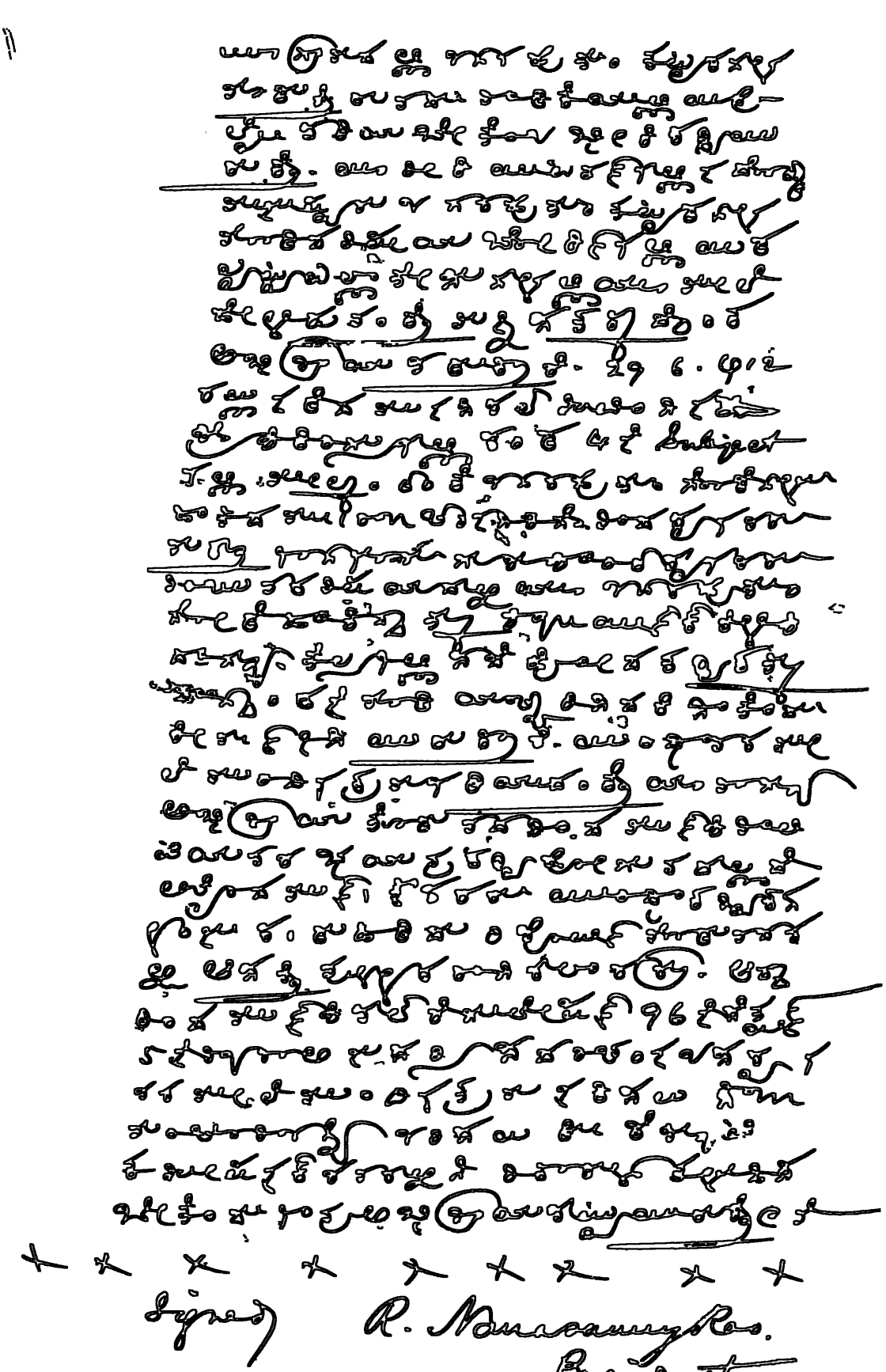
S I R,

Your most obedient servant,

Offg Deputy Commissioner,

Chitaldroog District

S.V.



Signed R. Muthusamy Rao.
President.

"Extract"
28/8/12

[illegible]
Board
3 9.12 President

Subject:- Requisition for the records of Courts in Criminal Case on the file of the 1st Class Magistrate at Shimoga.

G R. S 26]

File No. 8272

Serial No 7

Diary No of letter replied to Ldc 36

No 9294 / mlg 12 — 922513

General and Revenue Secretariat

(ML /)

Dr, the 16/5/1913

To

The Sessions Court & Distt. Magistrate Shimoga Distt.

Date of issue 5/13

Signed by MV 2QR

Sir,

It is understood that in connection with Criminal prosecution launched for an Assault offence in the Court of the Sessions Court and 1st Class Magistrate, Division, of Shimoga, Court fixing bail failed the Crown to appear each on the ground that the prosecution had not been sanctioned by the Government

over

SUBJECT

Under Section 161 of the Mysore Municipal Regulations
Act I of 1918 the records of the
Case are required for reference,
Please
I am to request that you will
be so good as to furnish the Clerk
to Court at an early date.

I have &c

To
The Police
Hassan

Dues
nil

Inspector.

List of enclosures

Copied by

Examined by

GPB—25,000—8-8-11

1913

From The Deputy Commissioner
Shimoga District

To The Secretary
to the Govt of Mysore
Genl and Rev Depts

Dated 29th July 1913.

Despatched

Received

General No. 43
No 9.

Enclosure No One Record.

Referring to Mem No 9296
Mil 92-12-7 dated 22nd May 1913
forwards records in Criminal
Case No 5 Mil-12-13 (Govt vs.
T. Bhimarao) on the file of the
Assistant Commissioner and I.C.
Class Magistrate, Shimoga —
Sub-Division

GPB—50,000—23-9-12

M. 43 / J.9 Enclosed.

Deputy Commissioner's Office,
Shimoga District,
Dated, Shimoga, 28th July 1913

From,

Q 812

Rul 82-12
A 8

H. Malliah Esqr B A
Offg Deputy Commissioner,
Shimoga District

To,

H. R. Srinivasa Iyangar Esqr M A
Secretary to Government of Mysore,
General and Revenue Departments
Bangalore.

Sir,

With reference to your letter No 9294/Jml 82-12-7 dated 22nd May 1913 calling for the submission of the records in a case in which a prosecution for a municipal offence, launched in the Court of the Assistant Commissioner and 1st class magistrate, Shimoga Sub-Division failed on the ground that the prosecution had not been sanctioned by the municipal Council,

Council, I have the honour to retransmit the records in Criminal case No 5 of 1912-13 (Government vs. T. Bhimaraõ) on the file of the Assistant Commissioner Nagpur, which appears to be the case referred to in your letter. These records were received here with your letter No. 953/mal 70-13 dated 22nd July 1913.

I have the honor to be,
Sir,
your most obedient Servant,

Mattiar
Offg Deputy Commissioner
Bhandara District